

REMARKS

Applicant appreciates the Examiner's thorough consideration provided in the present application. Claims 4-14 are currently pending in the instant application. Claims 1-3 were previously canceled without prejudice to or disclaimer of the subject matter contained therein. Claims 8-11 and 13 are withdrawn. Claim 4 is amended, and claims 4, 8, and 14 are independent. Reconsideration of the present application is earnestly solicited.

Examiner Interview

Applicant wishes to thank the Examiner for the courtesies extended to Applicant's representative, Carl T. Thomsen, Registration No. 50,786, during the interview conducted on October 20, 2005. During the interview, Applicant's representative discussed the distinction between image correction (present invention) and image editing (Shaughessy et al. and Ng et al.) Independent claim 4 has been amended along the lines discussed during the interview. The Applicant submits that claims 4-14 are patently distinct over the references cited by the Examiner. Accordingly, reconsideration and allowance of the present application are respectfully requested.

Election/Restriction

The Examiner has required an election in the present application between:

Group I, claims 4-7 and 12; and

Group II, claims 8-11 and 13.

The Examiner asserts that Groups I and II are related as subcombinations, and has withdrawn claims 8-11 and 13 from consideration as being constructively elected.

Traversal

It is respectfully submitted that the Restriction Requirement is improper.

It is respectfully submitted that the restriction requirement is improper in view of the fact that no serious burden is presented to the Examiner to consider all of the claims in a single application.

As set forth in Section 803 of the MPEP, the Examiner must examine an application on the merits if the examination of the entire application can be made without serious burden. Two criteria are identified for proper requirement for restriction:

1. The inventions must be independent or distinct as claimed; and
2. There must be a serious burden on the Examiner if the restriction is not required.

The Examiner is respectfully requested to reconsider his Restriction Requirement and act on all of the claims in the present application. If the Examiner does persist in his Restriction Requirement, the Applicant reserves the right to file one or more divisional applications directed to the non-elected claims at a later date if they so desire.

Amendments To The Specification

The specification is amended merely to correct minor typographical errors. No new matter has been entered.

Claim Rejections Under 35 U.S.C. § 102(b) and § 103(a)

Claims 4-5, 7, and 12 have been rejected under 35 U.S.C. § 102(b) as being allegedly anticipated by Shaughessy et al. (U.S. Patent No. 5,075,787) or Ng et al. (U.S. Patent No. 5,138,465). Claim 6 has been rejected under 35 U.S.C. § 103(a) as being unpatentable over Shaughessy et al. in view of Hobino et al. (U.S. Patent No. 5,751,343) or Brownstein (U.S. Patent No. 4,482,924). This rejection is respectfully traversed.

Arguments Regarding Independent Claims 4, 8, and 14

While not conceding the appropriateness of the Examiner's rejection, but merely to advance the prosecution of the present application, independent 4 has been amended to recite a combination of elements directed to an imaging correction apparatus, including *inter alia* an image correction section for correcting and repairing image data of the defect on said scanned image by utilizing the position of said identifying mark on the scanned image read by the reflective scanner, the corrected image data reproducing image data of the scanned image without the defect,

wherein the defect is caused by at least one of

a scratch on the print image,

a dust on the print image,

a stain on the print image,

a red-eye of a photographed person in the print image, and

a region having different chromaticity, brightness and chroma from those of a peripheral region of the scanned image due to a defect of a scanning pickup element used for scanning the print image.

In addition, each of independent claims 4 and 14 include a combination of elements, including, *inter alia*, an image correction section for correcting image data of said scanned image by utilizing the position of said identifying mark on the scanned image read by the reflective scanner.

By contrast, in Shaughnessy et al. and Ng et al., the areas designated with identifying marks such as "B", "S" and "R" as shown in FIG-3 are treated with "treatment mode" (for example, see column 7, lines 10-12 of Shaughnessy). However, the treatment of the prior art is totally different from the correction of image defects as the present invention. The "treatment mode" in Shaughnessy et al. and Ng et al. is the treatment of changing an original document while the present invention, as set forth in claims 4, 8, and 14, aims to reproduce an original print image without the defects (original image).

In addition, although the "Erasure" described in page 6, lines 56-58 pointed out by the Examiner is to erase highlighted areas, it does not reproduce the original document. If only the erasure is carried out, a blank portion will be generated in the document, which is the clear defect of the document.

Further, in order to clarify that the blank area discussed in the Advisory Action is a defect, claim 4 has been amended to recite that the defect is at least one of a scratch, a dust or a stain on the print image, a region having different chromaticity, brightness or chroma from those

of a peripheral region of the scanned image due to a defect of a scanning pickup element used for scanning the image, and a region of the red-eye of a person in the photographed image when a print image is a photographed image of a person. At the same time, claim 4 has been amended to recite that the image data of the defect is corrected and repaired, so that correcting a defect in the present invention may never involve making a blank area.

Support for the novel features set forth in claim 4, can be found in the specification, for example, on page 9, line 22 to page 10, line 8. See also, page 26, line 16 to page 27, line 3 of the specification for a disclosure of repairing.

With these changes to claim 4 as described above, the step of correcting and repairing the image data of a defect clearly does not include removing the defect and making a blank area. Therefore, the Examiner's allegation set forth in the Advisory Action has been overcome.

Accordingly, the image correction apparatus/digital photoprinter claimed in the present application are not disclosed by Shaughnessy et al. and Ng et al. Reconsideration and withdrawal of the rejection under 35 U.S.C. 102(b) are respectfully requested.

Thus, independent claims 4, 8, and 14 are in condition for allowance.

Arguments Regarding Dependent Claims

All dependent claims are now in condition for allowance due to their dependence on an allowable independent claim, or due to the additional novel features set forth therein. Accordingly, the rejection under 35 U.S.C. § 103(a) is now moot.

For example, claim 7 of the present invention defines detecting the position of the identifying mark by comparing the image data of the print image with image data of the scanned image. On the other hand, Shaughnessy et al. and Ng et al. merely describe a comparator to distinguish highlighted areas from unhighlighted areas on a support that is reflective *to UV* light using a scanned image data (column 4, lines 56-59 of Shaughnessy et al. and column 7, lines 13-22 of Ng et al.), and they do not describe comparing the print image data with the scanned image data.

All pending claims of the present invention, namely claims 4-14, are now in condition for allowance.

CONCLUSION

All the stated grounds of rejection have been properly traversed and/or rendered moot. Applicant therefore respectfully requests that the Examiner reconsider all presently pending rejections and that they be withdrawn.

In the event there are any matters remaining in this application, the Examiner is invited to contact Carl T. Thomsen, Registration No. 50,786 at (703) 205-8000 in the Washington, D.C. area.

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If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37 C.F.R. §§1.16 or 1.17; particularly, extension of time fees.

Respectfully submitted,

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